

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for dates of service 10-30-01 through 11-5-01.
- b. The request was received on 5-22-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFAs
 - c. TWCC 62s and Example EOBs
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to a Request for Dispute Resolution
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. No Carrier sign sheet was noted in the dispute packet. The Carrier's response was date-stamped received on 7-15-02 and is reflected as Exhibit II of the Commission's case file. All documentation will be reviewed.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 6-10-02:

“(Provider’s) position is that the fees paid for these services by the carrier were not ‘fair and reasonable.’ Evidence supporting our position is offered in the following 4 points:
1. Examples of what other insurance companies reimbursed (provider) for CPT 97799-CPAP during the service dates....2. (Provider) is also enclosing a study it conducted in 2001. The study surveyed what insurance companies were paying for CPT 97799-CPAP....We believe this evidence supports our premise that the fees paid by the carrier are not ‘fair and reasonable’.”

2. Respondent: Letter dated 7-15-02:
“Carrier reduced payment for the DOS in question, 10/30/01 – 11/05/01, CPT Code 97799 CPAP (chronic pain management) based on its standardized methodology for determining fair and reasonable reimbursement.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 10-30-01 and extending through 11-5-01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$7,000.00 for services rendered on the above dates in dispute.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$4,600.00 for services rendered on the above dates in dispute.
5. Per the Requestor’s Table of Disputed Services, the amount in dispute is \$2,400.00 for services rendered on the above dates in dispute.
6. The Carrier’s EOBs deny additional reimbursement as “M – NO MAR, REDUCED TO FAIR & REASONABLE; N – NOT APPROPRIATELY DOCUMENTED; F – FEE GUIDELINE MAR REDUCTION”.

| DOS | CPT or Revenue CODE | BILLED | PAID | EOB | MARS | REFERENCE | RATIONALE: |
|--|--|--|--|----------------------|------------------|---|--|
| 10-30-01 10-31-01 11-01-01 11-02-01 11-05-01 | 97799-CP-AP for all dates of service | \$1,400.00 for each date of service | \$920.00 for each date of service | M M M,N M,F | No MAR DOP | MFG: Medicine Ground Rules (II) (G); TWCC Rule 133.307 (j) (1) (G); 133.307 (g) (3) (D); 413.011 (d); 133.304 (i); CPT Descriptor | <p>The carrier has reimbursed the provider at \$115.00 per hr. for Chronic Pain Management. The Provider has billed \$175.00 per hr. CPT Code 97799-CP-AP is reimbursed at fair and reasonable.</p> <p>The Carrier has denied the disputed services as “M, N, and F”. Documentation supports that the services were rendered and there is no MAR for CPT Code 97799 CP-AP. Therefore the denial of “M” will be addressed.</p> <p>Pursuant to Rule 133.307 (g) (3) (D), the requestor must provide “...documentation that discusses, demonstrates and justifies the payment amount being sought is a fair and reasonable rate of reimbursement....”. The Provider has submitted example EOBs that indicate the amount billed has been reimbursed by other insurance carriers.</p> <p>TWCC Rule 133.304 (i) states, “When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall: (1) develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances received similar reimbursement; (2) explain and document the method it used to calculate the rate of pay, and apply this method consistently; (3) reference its method in the claim file; and (4) explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement.”</p> <p>The carrier has reimbursed the provider a total of \$4,600.00 out of \$7000.00 billed by the provider. However, the carrier has failed to include in their response the methodology used to arrive at the hourly fee reimbursed, nor did they submit documentation that discusses, demonstrates and/or justifies that the payment made represents fair and reasonable.</p> <p>The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. However, in this case, the Respondent has failed to support their denial. The requestor has provided EOBs and HCFA 1500s from other carriers to support their position that the amount billed is fair and reasonable</p> <p>Therefore additional reimbursement is recommended in the amount of \$2,400.00. (\$7000.00 or 40 hrs billed at \$175.00 per hr - \$4,600.00 already paid = \$2,400.00.)</p> |
| Totals | | \$7000.00 | \$4,600.00 | | | | The Requestor is entitled to additional reimbursement in the amount of \$2,400.00 |

The above Findings and Decision are hereby issued this 28th day of February 2003.

Lesa Lenart
Medical Dispute Resolution Officer
Medical Review Division

LL/ll

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$2,400.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 28th day of February 2003.

Carolyn Ollar
Medical Dispute Resolution Officer
Medical Review Division

CO/ll